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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/504,939	02/16/2000	Christopher R. Stephens	ADT0001-US	6632

7590 04/05/2007  
ADAPTIVE TECHNOLOGIES, INC.  
25812 N. 67TH DRIVE  
PEORIA, AZ 85383

EXAMINER
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FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
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3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/05/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/504,939

Applicant(s)

STEPHENS ET AL.

Examiner

Daniel S. Felten

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-39, 46-61 and 67-76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-39, 46-61 and 67-76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Receipt of the "Response to Office Communication" filed January 02, 2007 is acknowledged. After consideration of the Applicants comments, the Examiner
2. The applicant elected Group II comprising claims 24-39 and 46-61. The applicant also added claims 67-76 that depend from claims within the elected group.
3. Thus claims 1-23, 40-45 and 62-66 are withdrawn from examination. Claims 24-39, 46-61 and 67-76 are presented to be examined upon their merits.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore,

In claim 24:

"a means for distributing artificial agents"

"a management system having a graphical user interface"

"a graphical user interface that displays recommendations"

In claim 31:

A method of (e.g. via a flowchart that shows steps performed in the method)

"Accepting a request to supply artificial agents"

"creating the artificial agents"

"distributing the artificial agents"

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“monitoring an expected future performance of artificial agents...”

“creating new artificial agents and distributing the new artificial agents”

must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 24-30, 46-61 and 67-76 and rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claims 24-30:

“a means for distributing artificial agents” It is unclear in this limitation the particular “means” the applicant desires to ascribe the function of distributing artificial agents.

Claim 24 discloses at least one “wherein” clause. Claim language that makes the limitation “optional” fails to limit the claim [see MPEP 2111.04],

also, “having a graphical user interface *capable* of displaying the recommendations,” is unclear because it is not known whether the graphical user interface is required to display the recommendations or that it only *potentially* displays the recommendations. It is asserted that the claim language “capable” implies that it can only potentially display the recommendations.

It is also asserted that “if and when...and if...” is alternative claim language that makes the claim unclear because there is uncertainty as to whether retiring the first agent is a required within the claim

Re claims 31-39:

“if the expected future performance...” also is alternative language that makes the claim unclear because there is uncertainty if the limitation(s) is/are required to be performed.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 24-39, 46-61 and 67-76 rejected under 35 U.S.C. 103(a) as being unpatentable over Schutzer (US 5,920,848) in view of Pollock (Us 5,706,406)

Schutzer discloses a consulting system, as in claims 24-30, that proves a means for distributing artificial agents (see "intelligent agent server site," column 7, lines 26-33),

An agent factory monitors financial recommendations (see column 4, lines 27-40);

Having a graphic user interface (see GUI/Internet browser) that is capable of displaying recommendations/ reports/alarms (see column 7, lines 10-12; column 8, lines 55-61; and column 11, lines 26-47);

Schulter discloses that the users may modify the payment instructions of the artificial agent to be customized to their particular needs (see Schulter, column 3, lines 5-61), but fails to disclose creating a new artificial agent per se. Pollock discloses the fact that the replacement of artificial agents are supplied by updated information to the agent which allows it to perform alternative functions (see Pollock, Abstract, column 2, lines 18+). Thus it would have been

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obvious for artisan to have considered that the ability for the artificial agent of Schutzer to be customized to fit the needs the customer would provide an essentially new artificial agent as discussed in Pollock because the artificial agent would be provided with information that would make it “behave” within predetermined levels or within required rules or criteria. Thus to create a new artificial agent would essential be to impart to it different or updated data when it failed to provide an expected outcome (see Pollack, column 1, lines 39+). Thus creating new agents is considered the ability of the artificial agent to “adapt” and change its behavior in new way by supplying the agent(s) new information as suggested by Schutzer (see column 3, lines 51-61).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742.

The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Daniel S Felten  
Examiner  
Art Unit 3693



DSF  
3/28/2007